

MORVILLO; ABRAMOWITZ, GRAND, IASON, ANELLO & BOHRER, P.C.

ELKAN ABRAMOWITZ  
RICHARD F. ALBERT  
ROBERT J. ANELLO  
LAWRENCE S. BADER  
BARRY A. BOHRER  
CATHERINE M. FOTI  
PAUL R. GRAND  
LAWRENCE IASON  
STEPHEN M. JURIS  
ROBERT G. MORVILLO  
BARBARA MOSES\*  
JODI MISHER PEIKIN  
JONATHAN S. SACK\*\*  
EDWARD M. SPIRO  
JEREMY H. TEMKIN  
JOHN J. TIGUE, JR.  
CYRUS R. VANCE, JR.  
RICHARD D. WEINBERG

COUNSEL

JUDITH MOGUL  
CHRISTOPHER J. MORVILLO  
E. SCOTT MORVILLO  
GREGORY MORVILLO

\*ALSO ADMITTED IN CALIFORNIA AND  
WASHINGTON, D.C.

\*\*ALSO ADMITTED IN CONNECTICUT

MICHAEL C. SILBERBERG  
1940-2002

565 FIFTH AVENUE  
NEW YORK, N.Y. 10017  
TELEPHONE  
(212) 856-9600  
[www.maglaw.com](http://www.maglaw.com)  
FACSIMILE  
(212) 856-9494  
WRITER'S DIRECT DIAL  
(212) 880-9505

March 25, 2008

JENNIFER L. ACHILLES  
CANDICE ALOISI  
DAVID C. AUSTIN  
LAWRENCE M. BARNES\*  
JAMES DARROW  
BENJAMIN S. FISCHER  
SETH A. GROSSMAN  
ELIZABETH HAINES  
JAMES V. HAYES\*\*\*  
RACHEL HEMANI  
MATTHEW HOMBERGER  
TIMOTHY M. HUDSON\*\*  
JASMINE JUTEAU  
THOMAS M. KEANE  
RACHEL M. KORENBLAT  
KRISTY WATSON MILKOV  
ELLEN M. MURPHY  
SARAH J. NORTH  
CLAUDIO R. OCHOA\*\*\*  
JANEY ROUNTREE\*\*\*\*  
ASHLEY E. RUPP  
ANDREW J. SCHELL  
E. SCOTT SCHIRICK  
MARYANNE SEXTON  
KATHRYN M. SPOTA  
DAVID STANKIEWICZ  
JERROLD L. STEIGMAN  
JAMES R. STOVALE  
BARBARA L. TRENCHER  
KEFIRA R. WILDERMAN

\*ALSO ADMITTED IN NEW JERSEY

\*\*ALSO ADMITTED IN OHIO

\*\*\*ALSO ADMITTED IN WASHINGTON, D.C.

\*\*\*\*ADMITTED IN ILLINOIS ONLY

+ALSO ADMITTED IN MASSACHUSETTS

**BY FEDERAL EXPRESS**

J. Michael McMahon  
Clerk of the Court  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: United States v. Samuel Israel III, 05 Cr. 1039

Dear Mr. McMahon:

We represent Mr. Israel in the above-referenced action. On February 5, 2008, Lawrence Bader of our firm sent, via facsimile, a letter regarding Mr. Israel to Judge Colleen McMahon. The letter contained sensitive medical information, including details regarding Mr. Israel's medical conditions, scheduled procedures and treatments, and the names and telephone numbers of Mr. Israel's personal physicians. Consistent with the Southern District's Notice Regarding Privacy and Public Access to Electronic Civil and Criminal Cases, we did not file the letter on ECF.

Yesterday, we discovered that on February 7, 2008, the Court filed Mr. Bader's February 5, 2008 letter on ECF, thereby making the letter available to the public. None of the sensitive medical information was redacted from the letter that was filed. Mr. Israel did not authorize the disclosure of his sensitive medical information. The filing of the letter is particularly troubling given that members of the public clearly have viewed the letter and have

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publicly mocked Mr. Israel's medical conditions on internet blogs. See attached exhibit, found at [http://nakedshorts.typepad.com/nakedshorts/flimflam\\_update/index.html](http://nakedshorts.typepad.com/nakedshorts/flimflam_update/index.html).

Given these circumstances, we request that Mr. Bader's February 5, 2008 letter (docket #42) be removed from ECF and the public file immediately. This step is necessary to protect Mr. Israel's privacy.

Please feel free to contact me with any questions.

Very truly yours,



Barry A. Bohrer

## NakedShorts

**Alternative thoughts on alternative investments...my adventures in the capital markets...and unsolicited opinions on anything else that comes to mind**

**February 11, 2008**

### **Wiping the smile off his face**

#### **Come in Scammy, your time is up**



Samuel Israel III, the only Bayou hedge fund fraud defendant to have so far evaded his comeuppance, will be sentenced Apr. 14 by a judge tired of "granting endless extensions of time so that Mr Israel could be sentenced at his convenience (which is, apparently, never) or so the Government could take an infinite amount of time of hold 'meetings' with Mr Israel."

Provoked by what she described as "an extraordinary letter" from Scammy's counsel, requesting yet another sentencing deferral, Judge Colleen McMahon issued an extraordinary letter of her own earlier this month, ripping "inexcusable presumption on the part of counsel" for both the Government and the defense for the latest, and apparently last, delay.

Scammy was to have been sentenced tomorrow, Feb. 28. But on Feb. 5, his counsel sought the umpteenth sentencing deferral since the Bayou founder and chief executive's guilty plea in Sep. 2005.

Mr Israel requires three surgeries: one to replace his pacemaker, one to replace an electronic device implanted in his body to address pain, and one to decompress one or possibly two discs in his lower spine...he has two rods and ten screws already in his spine. He suffers from aggressive degenerative [degenerate, surely?—Ed] disc disease.

Resisting the temptation to seek volunteer surgeons from the ranks of defrauded Bayou investors, Judge McMahon—who, in late January, sent former Bayou chief financial officer Daniel Marino down for 20 years—was unsympathetic.

I am not interested in defendant's medical problems, especially since it appears that he has taken a rather desultory attitude to resolving them, in the apparent belief that his sentencing could and would be endlessly postponed...His failure to attend to these medical matters in a timely fashion is hardly the fault of the court, and should have no impact on his sentencing date, since if Mr Israel is sentenced to a term of imprisonment, his medical needs can be met by the staff of the Bureau of Prisons...

...Mr Israel will be sentenced on April 14 at 10 am...There will be no adjournment of this date FOR ANY REASON WHATEVER; if Mr Israel has back surgery between now and then and is still not ambulatory, he can be brought to his sentencing in a wheelchair. [Emphasis in original].

Complete correspondence after the jump. Or, for Scammy, the high jump.

#### **Defense counsel's letter to Judge McMahon**

#### **US v. Samuel Israel III: Order**

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